

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN**

EUGENIA DUMITRIEADE,)	Case No.: 2:15-cv-10173
)	
Plaintiff,)	
v.)	Hon.
)	
JCPENNEY COMPANY)	
a/k/a J.C. Penney Company, Inc.,)	
)	
Defendant.)	
_____)	

COMPLAINT

NOW COMES Plaintiff, EUGENIA DUMITRIEADE (“Plaintiff”), through her attorneys, KROHN & MOSS, LTD., and hereby alleges the following against Defendant, JCPENNEY COMPANY a/k/a J.C. Penney Company, Inc. (“Defendant”):

INTRODUCTION

1. Plaintiff’s Complaint is based on the Telephone Consumer Protection Act (“TCPA”), 47 U.S.C. § 227 *et seq.*

JURISDICTION and VENUE

2. Jurisdiction of this court arises pursuant to 28 U.S.C. § 1331 and 47 U.S.C. § 227.

3. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2) as the conduct giving rise to this action occurred in this district as Plaintiff resides in this district and Defendant transacts business in this district”

PARTIES

4. Plaintiff is a natural person residing in Livonia, Michigan, Wayne County.

5. Defendant is a Delaware business entity with a registered office located at 30600

Telegraph Rd., Ste. 2345, Bingham Farms, MI 48025.

6. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

FACTUAL ALLEGATIONS

7. In 2014 Defendant began placing telephone calls to (248) 499-46xx, Plaintiff's cellular telephone number.

8. Upon information and belief based on the frequency, number, and nature of the calls, Defendant placed these calls to Plaintiff using an automatic telephone dialing system or other equipment capable of storing and/or producing telephone numbers ("auto dialer").

9. These calls were placed to attempt to collect payments from Plaintiff for a consumer account.

10. These calls were for non-emergency purposes.

11. Sometime before September 2014, Plaintiff instructed Defendant that she would make a payment when she could and to stop calling her cell phone.

12. Plaintiff revoked any permission, actual or implied, to call use an auto dialer to call her cell phone.

13. Defendant continued to use an auto dialer to call Plaintiff's cell phone.

14. Between September 18 and November 1, 2014, Defendant used an auto dialer to call Plaintiff's cell phone at least eighty (80) times.

15. Defendant voluntarily and willfully placed these calls.

16. Defendant intended to use an auto dialer to place these calls.

17. Defendant did not have Plaintiff's express consent to use an auto dialer to place these calls.

COUNT I
DEFENDANT VIOLATED THE TELEPHONE CONSUMER PROTECTION ACT

18. Defendant's actions alleged *supra* constitute numerous negligent violations of the TCPA, entitling Plaintiff to an award of \$500.00 in statutory damages for each and every violation pursuant to 47 U.S.C. § 227(b)(3)(B).

19. Defendant's actions alleged *supra* constitute numerous and multiple knowing and/or willful violates of the TCPA, entitling Plaintiff to an award of \$1500.00 in statutory damages for each and every violation pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

WHEREFORE, Plaintiff, EUGENIA DUMITRIEADE, respectfully requests judgment be entered against Defendant, JCPENNEY COMPANY a/k/a J.C. Penney Company, Inc., for the following

20. Statutory damages of \$500.00 for each and every negligent violation of the TCPA pursuant to 47 U.S.C. § (b)(3)(B);

21. Statutory damages of \$1500.00 for each and every knowing and/or willful violation of the TCPA pursuant to 47 U.S.C. § (b)(3)(b) and 47 U.S.C. § (b)(3)(C);

22. All court costs, witness fees and other fees incurred;

23. Any other relief that this Honorable Court deems appropriate.

Dated: January 15, 2015

KROHN & MOSS, LTD.

/s/ Adam T. Hill

Adam T. Hill

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